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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,174	12/04/2001	Simon Cawley	3397.I	2912
22886	7590	11/14/2003	EXAMINER	
AFFYMETRIX, INC			CLOW, LORI A	
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.			ART UNIT	PAPER NUMBER
3380 CENTRAL EXPRESSWAY				
SANTA CLARA, CA 95051			1631	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/006,174	CAWLEY ET AL.
Period for Reply	Examiner	Art Unit
	Lori A. Clow, Ph.D.	1631
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
1) <input type="checkbox"/> Responsive to communication(s) filed on ____.		
2a) <input type="checkbox"/> This action is FINAL . 2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
Disposition of Claims		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-32</u> is/are pending in the application.		
4a) Of the above claim(s) ____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) ____ is/are allowed.		
6) <input type="checkbox"/> Claim(s) ____ is/are rejected.		
7) <input type="checkbox"/> Claim(s) ____ is/are objected to.		
8) <input checked="" type="checkbox"/> Claim(s) <u>1-32</u> are subject to restriction and/or election requirement.		
Application Papers		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on ____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on ____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.		
If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
Priority under 35 U.S.C. §§ 119 and 120		
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:		
1. <input type="checkbox"/> Certified copies of the priority documents have been received.		
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. ____.		
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
Attachment(s)		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: ____.		

DETAILED ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8 and 17-24, drawn to a computerized system and method for determining biological sequence characteristics, classified in class 702, subclass 20.
- II. Claims 9-16, drawn to a computerized method for designing nucleic acid probe arrays, classified in class 702, subclass 20 and class 435, subclass 174.
- III. Claims 25-32, drawn to a computerized system for characterizing a biological sequence, classified in class 702, subclass 20.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions of Group I and Group II, the invention of Group I is drawn to the identification of a sequence characteristic using Bayesian analysis and Group II is drawn to designing nucleic acid probe arrays. The methods are different in that they require different method steps to establish different outcomes. The method steps of Group II include the further requirements of defining a target region and selecting probes, which require vastly different steps than the invention of Group I.

Invention III is not related to either of Inventions I or II. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). The system of Group III has limitations and means for performing a method different from that of either Group I or Group II. It is noted that the means of Group III may be capable of performing the method of Group II. However, the invention of Group II is directed to a system to design nucleic acid probes, whereas the invention of Group III is directed to characterizing a sequence, thus leading to different outcomes.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II or Group III, restriction for examination purposes as indicated is proper.

Notes

It is noted that the specification contains an embedded hyperlink and/or other form of browser-executable code. Applicant is reminded to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori A. Clow, Ph.D. whose telephone number is 703-306-5439. The examiner can normally be reached on Monday thru Friday, 10:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 703-308-4028. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Marjorie A. Moran
MARJORIE MORAN
PATENT EXAMINER

Lori A. Clow, Ph.D.

November 3, 2003

Art Unit 1631

Lori A. Clow